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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

LEROY B.,

Petitioner,

v.

THE SUPERIOR COURT OF ORANGE
COUNTY,

Respondent;

ORANGE COUNTY SOCIAL SERVICES
AGENCY et al.,

Real Parties in Interest.

G034448

(Super. Ct. No. DP008604)

O P I N I O N

Original proceedings; petition for a writ of mandate to challenge an order of the Superior Court of Orange County, Carolyn Kirkwood, Judge. Petition granted.

Law Offices of Arthur J. LaCilento and Arthur J. LaCilento for Petitioner.

Deborah A. Kwast, Pubic Defender, and Dennis M. Nolan, Deputy Public Defender for Lisa M.

No appearance for Respondent.

Benjamin P. de Mayo, County Counsel, and Beth L. Lewis, Deputy County Counsel for Real Party in Interest Orange County Social Services Agency.

Law Office of Peggy Oppedahl and Peggy Oppedahl for the Minor.

* * *

Pursuant to California Rules of Court, rule 39.1B, Leroy B. (the father) seeks review of the order scheduling a permanency planning hearing for his son. (Welf. & Inst. Code, § 366.26.)¹ In this writ proceeding, the father contends he was not given reasonable services. We conclude reasonable reunification services have not been provided to the father who is totally disabled. The petition is granted.

I

FACTS

Shortly before Christmas 2002, Matthew B. was born in Kern County to Lisa M., the mother. Tests were positive for opiates and barbiturates in his system. The mother and the father were participating in court ordered family reunification services in Orange County when Matthew was born. Kern County placed a hold on Matthew because he had a sibling involved with family reunification services. A social worker from Orange County Social Services Agency (SSA) believed the couple traveled to Kern County for Matthew's birth in an effort to conceal his birth from SSA. The Juvenile Court of Orange County accepted transfer of the case from Kern County on June 17, 2003.

Leroy B. is a Vietnam veteran. He has been rated permanently and totally disabled by the Veterans Administration. He has rheumatoid arthritis with knee and back problems and walks with a cane. He also suffers from asthma, emphysema and severe migraines.

¹ All further statutory references are to the Welfare and Institutions Code, unless otherwise indicated.

Reunification services were ordered and approved on June 3, 2003. A case plan was filed with the juvenile court on July 15, 2003. Under the “Agency Responsibilities” section of the plan, it states: “The assigned social worker will provide transportation passes for the . . . father . . . as needed to facilitate the case plan.”

At some point, the father’s car was repossessed. Regular bus passes were given to the father, but the bus stop is two miles from SSA’s offices on Eckhoff Street where visitations took place. The court ordered SSA to refer the father for a disabled bus pass “as soon as possible” on April 29, 2004. After that, on at least four occasions, the father told SSA he needed access bus passes.² He explained to the social worker that he needed access bus passes for visitation at the Eckhoff office. At some point around the end of June 2004, the social worker “put that [request] in.” But the powers that be at SSA rejected the request because “the wording in the minute order is not what they wanted.”

Access bus passes were eventually mailed to the father by registered mail, but he was not home when the postal worker came. The father could not walk to the post office to retrieve them because it is over a mile and a half away. It was not until August 2004 that the access bus passes were actually given to the father.

The father receives a small amount of money from public agencies each month. In approximately May 2003, the father first informed the social worker he was not receiving reimbursement from social services for transportation to see his children. The social worker explained that several times she tried to provide the father with transportation funds, “but there were problems with when I sent it in, they needed a program manager’s signature, or they needed — it kept getting sent back. [¶] It took about probably four or five months for him to get that reimbursement.”

² The parties do not explain exactly what an access bus pass is, but we infer from the discussion of the parties that such a pass entitles a disabled person to schedule door to door transportation in advance by telephone.

A combination 12- and 18-month review hearing was conducted over several days from August 26, 2004 to September 10, 2004. At the hearing, county counsel stated the county's position was that, "bus passes were provided, whether it was access or not." The social worker said the foster father was meeting the father at locations which required the father to use regular, rather than access, bus passes. Other testimony revealed Matthew was taken from the foster parents and placed in an emergency shelter in mid-June 2004 during the exact time period the father did not get any disabled bus passes or transportation reimbursement.

The juvenile court concluded that reasonable services were provided, and that there had not been substantial compliance with the case plan by the father. The court discussed the father's transportation issues: "With regard to bus passes and access passes, social worker Henry testified that it was up to father to apply for the access passes. [¶] And there was a problem. No doubt this could have been handled better by the social worker when she attempted to get an access pass or group of access passes for father. [¶] . . . [¶] But the law does not require the Social Service's Agency's actions to be perfect in this area. Simply reasonable. [¶] . . . [¶] The reimbursement for transportation funds, there's another area where there was a delay on the part of the agency. And it appears to be an inexcusable delay, really, that it took about five months, I guess, before, as I recall the testimony, for father to get the reimbursement that was needed."

Reunification services were terminated. A contested hearing pursuant to section 366.26 is scheduled for January 5, 2005. The father requests an order granting additional reunification services and a stay of the section 366.26 hearing. The county argues the father received reasonable services and urges us to deny the petition.

II

DISCUSSION

“[W]hen a child is removed from a parent’s . . . custody, the juvenile court shall order the social worker to provide child welfare services to the child and the child’s . . . statutorily presumed father” (§ 361.5, subd. (a).) In the instant case, the juvenile court found “Leroy B[.] to be the presumed father of the minor.”

“The juvenile court shall not refer a case to a permanency planning hearing unless it has been shown by clear and convincing evidence that reasonable services have been provided. (§ 366.21, subd. (g).)” (*In re Mark L.* (2001) 94 Cal.App.4th 573, 585.) Substantial evidence is the standard of review when a juvenile court finds that reasonable services were provided. (*In re Misako R.* (1991) 2 Cal.App.4th 538, 545.)

“Dependency law requires a “good faith effort” to provide reasonable reunification services ‘responding to the unique needs of each family.’ [Citation.]” (*In re Maria S.* (2000) 82 Cal.App.4th 1032, 1039.) “The adequacy of reunification plans and the reasonableness of the SSA’s efforts are judged according to the circumstances of each case.” (*Robin v. Superior Court* (1995) 33 Cal.App.4th 1158, 1164.)

SSA was ordered to provide reunification services to the father. The agency was also ordered to provide the father with disabled bus passes. The agency did not provide a reasonable means of transportation for the disabled father to travel to the place it designated for visitation. Nor did it provide the father timely transportation reimbursement.

As a totally disabled man, the father is entitled to a means of transportation which did not require that he walk long distances. As an impoverished person, he is entitled to timely reimbursement for transportation expenses. We conclude there is a lack of substantial evidence he was offered reasonable reunification services.

III

DISPOSITION

The petition is granted. Let a peremptory writ of mandate issue directing the juvenile court to vacate its order setting a permanency planning hearing and to order a minimum of six months of additional reunification services for the father.

MOORE, J.

WE CONCUR:

RYLAARSDAM, ACTING P. J.

FYBEL, J.